

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

1 STEFAN NICOLAIE LIUBA,

2 Plaintiff,

3 v.

4 MASSO EXPO CORPORATION,  
5 et al.,

6 Defendants.  
7  
8

Civil No. 98-2100 (JAF)

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U.S. DISTRICT COURT  
SAN JUAN, PR

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10 OPINION AND ORDER

11 Initially, the Plaintiff, Stefan Nicolaie Liuba, brought a  
12 diversity tort action against the Defendants, Massó Expo Corporation  
13 ("Massó") and Seguros Triple S, Inc. ("Triple S"), pursuant to 28  
14 U.S.C. § 1332. The Plaintiff is a resident of New Jersey; the  
15 Defendants are Puerto Rican corporations conducting business  
16 exclusively in Puerto Rico; and the amount in controversy exceeds  
17 \$75,000, exclusive of costs and interest.

18 On August 4, 1999, the Defendants filed a Motion to Inform the  
19 Court of Serious Irregularities During the Discovery Process ("the  
20 Motion") and two sworn affidavits. The Defendants also moved for us  
21 to take judicial notice of the allegations asserted in the Motion and  
22 supporting documentation, as well as for us to take appropriate action  
23 in the pre-trial proceedings. On August 25, 1999, we held a closed  
24 hearing on the Motion.  
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Civil No. 98-2100 (JAF)

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## I.

Relevant Factual Background

With the Plaintiff's consent, the Defendants arranged for Dr. Juan J. Lojo, Chairman of the Surgical Department of the School of Medicine of the University of Puerto Rico, to examine the Plaintiff for the purpose of evaluating the Plaintiff's allegations of injury. On July 15, 1999, the Plaintiff arrived at Dr. Lojo's offices for the scheduled appointment. After Dr. Lojo had finished with his regular patients, Mrs. Adriana Jiménez, Dr. Lojo's secretary, escorted the Plaintiff into the examining room.

Dr. Lojo conducted a complete physical examination of the Plaintiff. While Dr. Lojo was recording his findings, the Plaintiff produced a stuffed envelope for Dr. Lojo. The Doctor took the envelope because he believed it contained laboratory results or other medically pertinent documents. Upon inspection, he discovered that the envelope contained a large sum of twenty U.S. dollar bills. He immediately closed the envelope and returned it to the Plaintiff, informing him that he could not accept it. Dr. Lojo, quite distressed by what he understood to be an attempted bribe, then accompanied the Plaintiff from the examining room into the hallway and towards the reception area.

As the Doctor and the Plaintiff left the examining room, Mrs. Jiménez walked toward them to collect the medical records. The Plaintiff then proceeded into the reception area while Dr. Lojo and

Civil No. 98-2100 (JAF)

3-

1 Mrs. Jiménez remained in the hallway. There, Dr. Lojo informed her of  
2 what had just transpired in his examining room and instructed  
3 Mrs. Jiménez not to accept anything from the Plaintiff. Mrs. Jiménez  
4 walked back to her desk and found the Plaintiff attempting to leave an  
5 envelope on her desk. Mrs. Jiménez rejected the envelope and informed  
6 the Plaintiff that arrangements for payments had been made with the  
7 Defendants' attorneys. The Plaintiff then left the Doctor's offices.  
8

9 At no time before or during his visit to Dr. Lojo's offices did  
10 the Plaintiff receive a request for payment or invoice of any kind for  
11 the medical examination that Dr. Lojo conducted.

## 12 II.

### 13 Discussion

14 A federal court has the authority and duty to promote the fair  
15 and efficient administration of justice by, *inter alia*, monitoring the  
16 conduct of all the litigants and attorneys that come before it. See  
17 Chambers v. NASCO, Inc., 501 U.S. 32, 44 (1991); Derzack v. County of  
18 Allegheny, Pa., 173 F.R.D. 400, (W.D.Pa. 1996) ("The court's  
19 obligation is to protect not only litigants who may suffer from  
20 abusive litigation practices of their adversaries, but also to promote  
21 the proper function of a fair and effective judicial system which,  
22 while it is adversarial, need not also be callous, uncivil, sneaky or  
23 booby-trapped. When it becomes so, the courts must act decisively.").  
24 Various statutory, procedural, and other rules provide the sources for  
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Civil No. 98-2100 (JAF)

4-

1 this authority and obligation, including 18 U.S.C. §§ 401, 402; 28  
2 U.S.C. § 1927; and Fed. R. Civ. P. 11(c), 37(b), 41(b), and 55.

3 In addition, federal courts have inherent powers that not only  
4 bridge the interstices between statutory or procedural authorizations,  
5 but also, where appropriate, furnish an independent, supplemental  
6 source of judicial power. See Chambers, 501 U.S. at 50.

7 Among its implied powers, a federal court may impose silence, respect,  
8 and decorum and require parties to submit to rules of fair play so as  
9 to "'achieve the orderly and expeditious disposition of cases.'" Id.  
10 at 43, quoting Anderson v. Dunn, 6 Wheat. 204, 227 (1821), and Link v.  
11 Wabash R. Co., 370 U.S. 626, 630-31 (1962). Upon a finding of bad  
12 faith or willful misconduct, a federal court may also impose  
13 attorneys' fees and dismiss a case "not merely to penalize those whose  
14 conduct may be deemed to warrant such a sanction, but to deter those  
15 who might be tempted to such conduct in the absence of such a  
16 deterrent." National Hockey League v. Metropolitan Hockey Club, Inc.,  
17 427 U.S. 639, 643 (1976); see also John's Insulation, Inc. v. L.  
18 Addison and Associates, Inc., 156 F.3d 101, 108-09 (1<sup>st</sup> Cir. 1998);  
19 c.f. U.S. v. Kouri-Perez, 8 F.Supp.2d 133 (D.P.R. 1998) (reprimanding  
20 and ordering fine against defense counsel for their misconduct),  
21 appeal dismissed, 1999 WL 536657 (1<sup>st</sup> Cir. May 7, 1999).

22 The Plaintiff in this case is a knowledgeable man with a lifetime  
23 of experience, undoubtedly including the process for paying bills. At  
24 the time Dr. Lojo examined him, the Plaintiff knew or should have  
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Civil No. 98-2100 (JAF)

5-

1 known that medical bills, and almost any other type of bill, were  
2 generally not paid until an amount and due date had been specified by  
3 the person owed. By the Plaintiff's own admission, he never received  
4 any such notification from Dr. Lojo or his office. The Plaintiff also  
5 knew that payment is typically made by check or money order, not by  
6 cash. Nevertheless, the Plaintiff claims that the envelope full of  
7 cash was intended to pay Dr. Lojo for his services.

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9 After thoughtful consideration of the probable scenarios that may  
10 have led the Plaintiff to believe that he was required to pay Dr. Lojo  
11 immediately in cash, we find that the Plaintiff attempted to bribe  
12 and, thus, inappropriately influence Dr. Lojo's assessment of his  
13 medical condition. Plaintiff did not personally owe Dr. Lojo or his  
14 office anything, nor did the Doctor or his office ever indicate  
15 otherwise. Moreover, the Plaintiff did not articulate to either the  
16 Doctor or his secretary that the envelope was intended to pay for  
17 Dr. Lojo's services. Rather, the Plaintiff surreptitiously and  
18 without explanation tried to leave a cash-laden envelope for Dr. Lojo.

19  
20 We find that the Plaintiff's behavior corrupted the discovery  
21 process and obstructed the administration of justice. His conduct was  
22 improper and reprehensible. We cannot, and will not, tolerate it.  
23 We, accordingly, dismiss the complaint against the Defendants and  
24 assess attorneys' fees against the Plaintiff, payable to his attorney  
25 and opposing counsel. We do not take this action lightly. Although  
26 we subscribe to the policy favoring adjudication on the merits, the

Civil No. 98-2100 (JAF)

6-

1 Plaintiff's actions have so affronted the integrity of the judicial  
2 process and this court that we are compelled to this extreme remedy.  
3 See Aoude v. Mobile Oil Corporation, 892 F.2d 1115, 1118 (1<sup>st</sup> Cir.  
4 1989) (recognizing the inherent power to dismiss where a party  
5 "defiles the judicial system in committing a fraud on the court").


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7 **III.**

8 **Conclusion**

9 Given the above findings, we hereby **DISMISS** this case with  
10 prejudice and **ORDER** the Plaintiff to pay the attorneys' fees as  
11 previously specified.

12 **IT IS SO ORDERED.**

13 San Juan, Puerto Rico, this

14  day of September, 1999.

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16 JOSE ANTONIO FUSTE  
17 U. S. District Judge  
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